

LUNENBURG PLANNING BOARD

TOWN OF LUNENBURG

Emerick R. Bakaysa, Chair
Joanna L. Bilotta-Simeone, Vice-Chair
Thomas W. Bodkin, Jr., Clk.
Robert J. Saiia, Mbr.
Nathan J. Lockwood, Mbr.
Marion M. Benson, Planning Director



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960 Massachusetts Avenue
Lunenburg, MA 01462

Minutes
December 12, 2011

Meeting Posted: Yes
Place: Town Hall, 17 Main Street, Lunenburg, MA 01462
Time: 6:30 PM

Present: Emerick R. Bakaysa, Joanna L. Bilotta-Simeone, Thomas W. Bodkin Jr., Nathan J. Lockwood, Marion M. Benson
Absent: Robert J. Saiia

MINUTES – APPROVAL: Motion Ms. Bilotta-Simeone, approve 12-5-11 minutes, 11-21-11 minutes, 11-21-11 Zoning Articles Public Hearing, and 11-21-11 Horizon Christian Fellowship Public Hearing, Second, Mr. Bodkin Jr., Motion passed. Motion Ms. Bilotta-Simeone, approve Executive 11-7-11, Second, Mr. Bodkin Jr., roll call vote, Mr. Lockwood, aye; Mr. Bodkin Jr., aye; Ms. Bilotta-Simeone, aye; Mr. Bakaysa, aye.

NOTICES & COMMUNICATIONS: Noted Conservation Commission Determinations of Applicability for 11 Beachview Road, 171 Island Road, 56 Laurel Lane, 96 Laurel Lane, 50 Massachusetts Avenue, 228 Northfield Road, 390 Page Street, and 338 Townsend Harbor Road. Certificates of Compliance for 11 Beachview Road, 70 Fire Road 24B, 790 Massachusetts Avenue, and 301 Massachusetts Avenue. Order of Conditions for 141 Canterbury Drive.

COMMITTEE REPORTS:

MJTC- No report. Board representative absent.

MRPC- Meeting held 12-6-11. Focus was on Governor's Task Force for renewable energy. The Task Force Chair is the Town Administrator for Lancaster and Mr. Bodkin Jr. felt it would be advantageous if he could give a presentation to Lunenburg. Ms. Benson noted that the projected solar farm for the Town landfill is now in its third review.

DPW Building Committee- Next meeting scheduled for December 13th.

Capital Planning Committee- Ms. Benson noted that in the past, appointments with the various Department Heads have been held at the meeting location of the Capital Planning Committee. This year the Committee chose to meet at the various work sites to assist the Committee in viewing the issues versus having the Department Head sitting at the Committee with only supporting paperwork. The Committee felt this procedure was successful.

School Reconfiguration Committee- A presentation summarizing the findings of the Reconfiguration Committee was presented to the School Committee. The Committee's recommendation is to go from four school buildings to three. The next step will be the formation of a school building committee. Ms. Bilotta-Simeone felt that Mr. Lockwood should continue on the Building Committee.

PLANNING DIRECTOR'S REPORTS/NEW BUSINESS:

American Tower, 2005 Massachusetts Avenue- The Removal Bond and Certificate of Insurance for the facility were provided to the Planning Office. (Ms. Benson noted that insurance certificates and bonds received from tower applicants are sent to the Town Accountant for recording.)

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Handwritten signatures:
JLB
TJ
RSJ

Sprint Nextel, 9 Chase Road- Steve Marsden (Reviewing Engineer for the site), Marsden Engineering Inc., noted the proposal is for replacing existing antennas with new antennas. Circuitry will also be updated. There will be no visual change. Mr. Marsden requests that the Applicant provide the emissions rating of the new antennas.

Glenn's Auto Salon/Asian Imperial, 332 Massachusetts Ave- The office is in receipt of Certificate of Compliance (CoC) from Conservation Commission closing out old CoC for Glenn's Auto Salon as it is no longer relevant. Glenn's Auto had an Enforcement Order as he performed unauthorized work that caused environmental damage. Glenn's Auto went out of business before complying; Asian Imperial will rectify the issues created by Glenn's Auto.

Mass PV1, LLC, 651 Chase Road- Town Counsel, Attorney Joel Bard, was present to go over his findings relative to Lunenburg's Solar Bylaw. He summarized his letter of December 9th as follows: General Laws c.40A, §3 provides "no zoning ordinance or bylaw shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare." c.40A, §3 provides many exemptions from local zoning. In his opinion, the language of G.L. c.40A, §3 permits municipalities to impose zoning restrictions limiting the location and size of various solar facilities, as long as such regulations allow reasonable opportunities for solar energy uses in the Town. Lunenburg's Zoning Bylaw prevents the Town from prohibiting the facilities town-wide, but does allow the Town to regulate them. The Bylaw does not state where one can/cannot build a solar facility. His opinion is that the Bylaw allows solar facilities town-wide. The Bylaw can be amended to note where solar fields can be located in the Town. (Opinion letter on file in the Planning Office.) Mr. Lockwood had questions of Attorney Bard. Was the Bylaw language being weak on the issue of use? Attorney Bard sees the Bylaw as more dimensional control; not addressing the issue of use. Attorney Bard noted that his job is to provide a legal opinion on which the Board can base its decision. Mr. Bodkin Jr. noted that the Board will probably look at amending the Bylaw and inquired of Attorney Bard how to do that taking into consideration abutter concerns and the vagueness of the prohibition. Can the Town give itself the authority to give a special permit? Attorney Bard responded that Towns can narrowly confine the location where solar farms can be located and have dimensional regulations in place regarding appropriate buffering. Ms. Bilotta-Simeone noted that the Bylaw needs amending, but wanted clarification from Attorney Bard that under the existing Bylaw the Applicant for 651 Chase Road has the right to place the solar farm. Attorney Bard concurred. Mr. Bakaysa noted that the community has asked the Board to protect the rural character of the community while stimulating economic growth. The Board needs to focus on appropriate siting for the solar farms. They are a viable option that may return revenue to the Town to put the Town in a better financial position. He does not want every new opportunity that comes into the Town to end up in litigation which will deter other developers from coming to Lunenburg. David Matthews (Select Board Chair), 571 Mulpus Road- The Chase Road project is going into residential zoning, but negligibly impacting residents. The Bylaw needs to be amended to regulate siting of the solar farms.

Mr. Whalen, 526 West Townsend Road- Spoke strongly against the siting on 651 Chase Road. He felt it was a large-scale business being operated on residential property. What is the revenue being generated by this project? How do you put an industrial solar facility in a residential zone? Mr. Whalen felt that Attorney Bard did not address this in his Opinion. Attorney Bard responded that whether it is called industrial, commercial, or manufacturing the provision in c.40A, §3 allows the use to occur anywhere. A community, through its bylaw, can regulate the location.

Paula Bertram (Select Board member), 309 Townsend Harbor Road- Urged the Board to have an amended Bylaw to bring forth at Town Meeting. Felt there should be a stopgap measure in place stating residential-size solar only in residential zoning and commercial-size solar only in commercial zoning.

Steve Marsden, 475 Mulpus Road- Speaking as the previous Chair of the Green Communities Task Force; in addition to siting of solar farms, land must also be set aside for research and development of solar. After setting aside that land in the commercial zoning, there is not enough land left in Town for installation for solar facilities greater than 250 Kilowatts. 250 Kilowatts takes about one acre. One Megawatt is the equivalent of five acres. The Task Force was advised by its consultant that siting could not be limited to strictly Commercial/Industrial Districts. The Town would be unreasonably regulating and restricting to such a small area and subjecting itself to litigation.

Mr. Whalen- What is the Town's gain?

Mr. Matthews- The Town may not gain anything; what a private land owner chooses to do with their land is up to the land owner. Tom Alonzo (Select Board member), 284 Lancaster Avenue- Noted the existing Solar Bylaw needs to be reworked to provide more authority to the Town in regulating solar farms.

EPG Solar, 194 Electric Avenue- Applicant has met with Ms. Benson and Reviewing Engineer Steve Marsden and will look at making revisions to its submittal due to the proximity to residences. Mr. Bakaysa wants the Applicant to come before the Board prior to its Information Meeting. Ms. Benson suggested that Mr. Londa, Director of Facilities and Grounds, also come before the Board to update the Board on the solar application for the Town landfill. Mr. Bakaysa noted that in the reworking of the Solar Bylaw, an item that needs attention will be buffering. Ms. Benson will review the solar bylaws of surrounding communities and will contact Attorney Bard for any suggestions as to exceptionally strong solar bylaws. Mr. Bodkin Jr. suggested MRPC be contacted. Mr. Bakaysa requested Ms. Benson check to see if there are any state planners skilled in the siting of solar farms.

Summer Street Corridor- Board in receipt of June 28, 2011 Task Force minutes along with three concepts for Summer Street improvements.

Open Space Ad Hoc Committee- Committee to start discussion on a right to farm bylaw. Ms. Benson will keep the Board informed.

Green Community Task Force- Article to become a Green Community did not pass at Special Town Meeting. Board of Selectmen requested the Task Force continue its work; do more research, publicizing, and come before May 2012 Town Meeting. Mr. Bakaysa requested Ms. Benson contact the Town Manager regarding a workshop with the Board of Selectmen and Green Task Force as to the impact this will have on future zoning bylaws.

DEVELOPMENT STATUS REPORTS:

DPW Facility, Chase Road- Progress reports indicate continuing work on renovation.

Emerald Place at Lake Whalom, 10 Lakefront- In receipt of Determination of Applicability from Conservation Commission for removable floating deck and replacement of beach sand. Status reports indicate continuing work on the office at 1 Carousel Lane, setting of tower two at 56 Carousel Lane, and laying sod around four new villas on Carousel Lane.

Highfield Village, Mass Ave/Northfield Road- In receipt of Request for Extension. Current Extension expires December 31, 2011. Applicant requesting six-month extension. Motion, Ms. Bilotta-Simeone to approve Extension to June 30, 2012, Second, Mr. Bodkin Jr., Motion passed.

Tri Town Landing, Youngs Road- Flow pressure test being done as a baseline before proceeding with Building Three.

Horizon Christian Fellowship, 2005 Massachusetts Avenue- Twenty-day appeal period concludes December 19, 2011.

MEETING SCHEDULE:

January 9- Planning Board meeting with EPG Solar and Master Planning Workshop, Town Hall.

January 23- EPG Information Meeting followed by Planning Board meeting, Town Hall.

OFFICE- Massachusetts Municipal Association (MMA)- Funds not available. Mr. Bodkin Jr. noted it is beneficial for Town officials to attend for peer interaction/discussion.

ADJOURNMENT: Motion, Ms. Bilotta-Simeone, Second, Mr. Bodkin Jr., Motion passed, adjourned 9:00 PM.

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